



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/579,595	05/21/2007	Eric Jeroen Laheij	ACH-3023 US	3551
56744	7590	03/15/2011		
Albemarle Netherlands B.V. Patent and Trademark Department 451 Florida Street Baton Rouge, LA 70801			EXAMINER SILVERMAN, STANLEY S	
			ART UNIT	PAPER NUMBER
			1736	
			MAIL DATE	DELIVERY MODE
			03/15/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/579,595

Applicant(s)

LAHEU ET AL.

Examiner

JAMES A. FIORITO

Art Unit

1736

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-912)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-18 are rejected under 35 U.S.C. 102(b) as being anticipated by
Stamires US 20030087750.

Stamires teaches a process of making quasi-crystalline boehmite by using a two-step process of pH adjustments, or in other words, "pH-swing" process (Paragraph 49). The first pH adjustment facilitates an acid peptization (Paragraph 48), which may be performed by adding nitric acid to a quasi-crystalline slurry until the slurry becomes translucent and the initial high viscosity is reduced (Paragraph 80). The acid peptization step would inherently lower the pH by at least two and to a level of below a pH of below 3 in order for the slurry to turn translucent.

The second step of peptization occurs by adding sodium hydroxide to the treated solution and raising the pH to 10 (Paragraph 82). Then the mixture is aged under hydrothermal conditions (Paragraph 84).

With respect to claims 2-4, the first pH adjustment facilitates an acid peptization (Paragraph 48), which may be performed by adding nitric acid to a quasi-crystalline slurry until the slurry becomes translucent and the initial high viscosity is reduced

(Paragraph 80). The acid peptization step would inherently lower the pH by at least two and to a level of below a pH of below 3 in order for the slurry to turn translucent.

With respect to claim 7, the precursor may be aluminum trihydrate (Paragraph 43).

With respect to claim 8, the precursor may be milled (Paragraph 55).

With respect to claim 9, the product may be shaped by extrusion (Paragraph 75).

With respect to claim 10, additives may be added to the process before hydrothermal treatment (Paragraph 72).

With respect to claims 11 and 12, the process of Stamires may be performed continuously in two reaction vessels (Paragraph 66).

With respect to claim 13, the mixture may be aged for 2 hours (Paragraph 91).

With respect to claims 15-18, Stamires does not expressly state the particle size of the product. However, the particle size would inherently be the same as the claimed ranges in the instant claims 15-18, since the processes of making are identical. Where the claimed and prior art product(s) are identical or substantially identical, or are produced by identical or substantially identical process(es) the burden of proof is on applicant to establish that the prior art product(s) do not necessarily or inherently possess the characteristics of the instantly claimed product(s). MPEP 2112.

Response to Arguments

Applicant's arguments filed 11/9/10 have been fully considered but they are not persuasive.

Applicant argues that the process of Stamires does not produce a QCB boehmite, but rather produces an anionic clay. In response Stamires does teach that the anionic clays are produced by the process, but he also teaches the process produces only "substantial amounts" of anionic clay, which implies that other materials are obtained in the process. Therefore, QCB boehmite would inherently be obtained by the process of Stamires, because the process of Stamires comprises all the claimed process steps of instant claim 1. Stamires anticipates the claimed process even if the QCB boehmite is the constituent of the product.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES A. FIORITO whose telephone number is (571)272-7426. The examiner can normally be reached on 9am - 6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman can be reached on (571) 272-1358. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James A Fiorito/
Examiner, Art Unit 1736

/Stanley Silverman/
Supervisory Patent Examiner, Art Unit 1736